



[Billing Code 7709-02-P]

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collections for OMB Review; Comment Request; Multiemployer Plan Regulations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of certain collections of information under its regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's request and solicits public comment on the collections of information.

DATES: Comments should be submitted by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at OIRA_DOCKET@omb.eop.gov or by fax to 202-395-6974. A copy of PBGC's request may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel, 1200 K St., NW., Washington, DC 20005-4026, or by visiting that office or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll free at 1-800-877-8339 and ask to be connected to 202-326-4040.) The request is also available at <http://www.reginfo.gov>.

FOR FURTHER INFORMATION CONTACT: Donald F. McCabe, Attorney, Regulatory Affairs Group, Office of the General Counsel, or Catherine B. Klion, Assistant General Counsel,

Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY and TDD, call 1-800-877-8339 and request connection to 202-326-4024.)

SUPPLEMENTARY INFORMATION: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved and issued control numbers for the collections of information, described below, in PBGC's regulations relating to multiemployer plans (OMB approvals expire March 31, 2014, April 30, 2014, or July 31, 2014 (as specified below)).¹

The collections of information for which PBGC is requesting extension of OMB approval are as follows:

1. Termination of Multiemployer Plans (29 CFR Part 4041A) (OMB control number 1212-0020) (expires March 31, 2014)

Section 4041A(f)(2) of ERISA authorizes PBGC to prescribe reporting requirements for and other "rules and standards for the administration of" terminated multiemployer plans.

Section 4041A(c) and (f)(1) of ERISA prohibit the payment by a mass-withdrawal-terminated plan of lump sums greater than \$1,750 or of nonvested plan benefits unless authorized by PBGC.

The regulation requires the plan sponsor of a terminated plan to submit a notice of termination to PBGC. It also requires the plan sponsor of a mass-withdrawal-terminated plan that is closing out to give notices to participants regarding the election of alternative forms of

¹ This notice does not cover Mergers and Transfers Between Multiemployer Plans (OMB Control Number 1212-0022, expires March 31, 2014) or Duties of Plan Sponsor Following Mass Withdrawal (OMB Control Number 1212-0032, expires May 31, 2014). Those information collections, which were included in PBGC's related "60-day notice" (78 FR 72128, Dec. 2, 2013), would be affected by PBGC's recent proposed rule on Multiemployer Plans; Valuation and Notice Requirements, 79 FR 4642 (Jan. 29, 2014). The proposed rule changes to those information collections are currently under review by OMB.

benefit distribution and, if the plan is not closing out, to obtain PBGC approval to pay lump sums greater than \$1,750 or to pay nonvested plan benefits.²

PBGC uses the information in a notice of termination to assess the likelihood that PBGC financial assistance will be needed. Plan participants and beneficiaries use the information on alternative forms of benefit to make personal financial decisions. PBGC uses the information in an application for approval to pay lump sums greater than \$1,750 or to pay nonvested plan benefits to determine whether such payments should be permitted.

PBGC estimates that plan sponsors each year (1) submit notices of termination for 10 plans, (2) distribute election notices to participants in 5 of those plans, and (3) submit requests to pay benefits or benefit forms not otherwise permitted for one of those plans. The estimated annual burden of the collection of information is 19.2 hours and \$18,436.50.

2. Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) (OMB control number 1212-0023) (expires March 31, 2014)

Sections 4203(f) and 4208(e)(3) of ERISA allow PBGC to permit a multiemployer plan to adopt special rules for determining whether a withdrawal from the plan has occurred, subject to PBGC approval.

The regulation specifies the information that a plan that adopts special rules must submit to PBGC about the rules, the plan, and the industry in which the plan operates. PBGC uses the information to determine whether the rules are appropriate for the industry in which the plan functions and do not pose a significant risk to the insurance system.

PBGC estimates that at most one plan sponsor submits a request each year under this regulation. The estimated annual burden of the collection of information is one hour and \$5,600.

² Although the regulation would be affected by the recent proposed rule (see footnote 1), the proposal would not affect the information collection.

3. Variances for Sale of Assets (29 CFR Part 4204) (OMB control number 1212-0021) (expires March 31, 2014)

If an employer's covered operations or contribution obligation under a plan ceases, the employer must generally pay withdrawal liability to the plan. Section 4204 of ERISA provides an exception, under certain conditions, where the cessation results from a sale of assets. Among other things, the buyer must furnish a bond or escrow, and the sale contract must provide for secondary liability of the seller.

The regulation establishes general variances (rules for avoiding the bond/escrow and sale-contract requirements) and authorizes plans to determine whether the variances apply in particular cases. It also allows buyers and sellers to request individual variances from PBGC. Plans and PBGC use the information to determine whether employers qualify for variances.

PBGC estimates that each year, 11 employers submit, and 11 plans respond to, variance requests under the regulation, and one employer submits a variance request to PBGC. The estimated annual burden of the collection of information is 2.75 hours and \$5,513.

4. Reduction or Waiver of Complete Withdrawal Liability (29 CFR Part 4207) (OMB control number 1212-0044) (expires March 31, 2014)

Section 4207 of ERISA allows PBGC to provide for abatement of an employer's complete withdrawal liability, and for plan adoption of alternative abatement rules, where appropriate.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the

plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, 100 employers submit, and 100 plans respond to, applications for abatement of complete withdrawal liability, and one plan sponsor requests approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 25.5 hours and \$35,000.

5. Reduction or Waiver of Partial Withdrawal Liability (29 CFR Part 4208) (OMB control number 1212-0039) (expires July 31, 2014)

Section 4208 of ERISA provides for abatement, in certain circumstances, of an employer's partial withdrawal liability and authorizes PBGC to issue additional partial withdrawal liability abatement rules.

Under the regulation, an employer applies to a plan for an abatement determination, providing information the plan needs to determine whether withdrawal liability should be abated, and the plan notifies the employer of its determination. The employer may, pending plan action, furnish a bond or escrow instead of making withdrawal liability payments, and must notify the plan if it does so. When the plan then makes its determination, it must so notify the bonding or escrow agent.

The regulation also permits plans to adopt their own abatement rules and request PBGC approval. PBGC uses the information in such a request to determine whether the amendment should be approved.

PBGC estimates that each year, 1,000 employers submit, and 1,000 plans respond to, applications for abatement of partial withdrawal liability and one plan sponsor requests approval of plan abatement rules from PBGC. The estimated annual burden of the collection of information is 250.5 hours and \$350,000.

6. Allocating Unfunded Vested Benefits to Withdrawing Employers (29 CFR Part 4211) (OMB control number 1212-0035) (expires April 30, 2014)

Section 4211(c)(5)(A) of ERISA requires PBGC to prescribe how plans can, with PBGC approval, change the way they allocate unfunded vested benefits to withdrawing employers for purposes of calculating withdrawal liability.

The regulation prescribes the information that must be submitted to PBGC by a plan seeking such approval. PBGC uses the information to determine how the amendment changes the way the plan allocates unfunded vested benefits and how it will affect the risk of loss to plan participants and PBGC.

PBGC estimates that 10 plan sponsors submit approval requests each year under this regulation. The estimated annual burden of the collection of information is 20 hours and \$0.

7. Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR Part 4219) (OMB control number 1212-0034) (expires April 30, 2014)

Section 4219(c)(1)(D) of ERISA requires that PBGC prescribe regulations for the allocation of a plan's total unfunded vested benefits in the event of a "mass withdrawal." ERISA section 4209(c) deals with an employer's liability for de minimis amounts if the employer withdraws in a "substantial withdrawal."

The reporting requirements in the regulation give employers notice of a mass withdrawal or substantial withdrawal and advise them of their rights and liabilities. They also provide notice

to PBGC so that it can monitor the plan, and they help PBGC assess the possible impact of a withdrawal event on participants and the multiemployer plan insurance program.

PBGC estimates that there are six mass withdrawals and three substantial withdrawals per year. The plan sponsor of a plan subject to a withdrawal covered by the regulation provides notices of the withdrawal to PBGC and to employers covered by the plan, liability assessments to the employers, and a certification to PBGC that assessments have been made. (For a mass withdrawal, there are two assessments and two certifications that deal with two different types of liability. For a substantial withdrawal, there is one assessment and one certification (combined with the withdrawal notice to PBGC).) The estimated annual burden of the collection of information is 18.43 hours and \$50,744.95.

8. Procedures for PBGC Approval of Plan Amendments (29 CFR Part 4220) (OMB control number 1212-0031) (expires March 31, 2014)

Under section 4220 of ERISA, a plan may within certain limits adopt special plan rules regarding when a withdrawal from the plan occurs and how the withdrawing employer's withdrawal liability is determined. Any such special rule is effective only if, within 90 days after receiving notice and a copy of the rule, PBGC either approves or fails to disapprove the rule.

The regulation provides rules for requesting PBGC's approval of an amendment. PBGC needs the required information to identify the plan, evaluate the risk of loss, if any, posed by the plan amendment, and determine whether to approve or disapprove the amendment.

PBGC estimates that at most one plan sponsor submits an approval request per year under this regulation. The estimated annual burden of the collection of information is 0.5 hours and \$0.

9. Notice of Insolvency (29 CFR Part 4245) (OMB control number 1212-0033) (expires April 30, 2014)

If the plan sponsor of a plan in reorganization under ERISA section 4241 determines that the plan may become insolvent, ERISA section 4245(e) requires the plan sponsor to give a “notice of insolvency” to PBGC, contributing employers, and plan participants and their unions in accordance with PBGC rules.

For each insolvency year under ERISA section 4245(b)(4), ERISA section 4245(e) also requires the plan sponsor to give a “notice of insolvency benefit level” to the same parties.

This regulation establishes the procedure for giving these notices. PBGC uses the information submitted to estimate cash needs for financial assistance to troubled plans. Employers and unions use the information to decide whether additional plan contributions will be made to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information in personal financial decisions.

PBGC estimates that at most one plan sponsor of an ongoing plan gives notices each year under this regulation. The estimated annual burden of the collection of information is one hour and \$2,734.

Issued in Washington, DC, this 13th day of March, 2014.

Judith R. Starr
General Counsel
Pension Benefit Guaranty Corporation

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